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8 Attorney for Plaintiffs
9 VICKI J. AZNARAN and
10 RICHARD N. AZNARAN

11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA

13 VICKI J. AZNARAN and RICHARD N.)
14 AZNARAN,)
15 Plaintiffs,)
16 vs.)
17 CHURCH OF SCIENTOLOGY OF)
18 CALIFORNIA, et al.,)
19 Defendants.)
20
21 AND RELATED COUNTER CLAIM)
22
23

No. CV-88-1786-JMI (Ex)

PLAINTIFFS' EX PARTE
APPLICATION FOR AN ORDER
ALLOWING PLAINTIFFS TO
RESPOND TO ALL PENDING
MOTIONS ON OR BEFORE
AUGUST 26, 1991; MEMORANDUM
OF POINTS AND AUTHORITIES
AND DECLARATION OF FORD
GREENE IN SUPPORT THEREOF

24 Plaintiffs VICKI J. AZNARAN and RICHARD N. AZNARAN
25 (hereinafter "Plaintiffs" or "Aznarans") hereby apply to this
26 Court, ex parte, for relief in a number of regards all of which
27 pertain to the pending motions that have been filed by defendants
28 over the course of the past two months.

Plaintiffs base this Ex Parte Application on the fact that at
the time said motions were filed, plaintiffs either were without
counsel, with counsel who was subsequently disqualified and all
papers filed by him stricken, or in the process of obtaining new

1 counsel.

2 The legal basis for this Ex Parte Application is Federal Rule
3 of Civil Procedure 6 and Local Rule 7.3.2.

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5 DATED: August 1, 1991

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8 FORD GREENE
Attorney for Plaintiffs

9 DECLARATION OF FORD GREENE

10 FORD GREENE declares:

11 1. I am an attorney licensed to practice law in the Courts
12 of the State of California, am admitted to practice before this
13 court and am the attorney of record for Vicki J. Aznaran and
14 Richard N. Aznaran, plaintiffs herein.

15 2. On June 7, 1991, I acceded to the request of plaintiffs
16 and executed substitutions of attorney whereby both plaintiffs, in
17 *pro per*, were substituted in my place and stead.

18 3. On July 1, 1991, plaintiffs jointly filed the
19 substitutions which placed them in *pro per*, with additional
20 substitutions whereby attorney Joseph A. Yanny became attorney of
21 record.

22 4. On July 24, 1991, the Court vacated all of the
23 substitutions, reinstated Ford Greene as attorney of record, and
24 ordered that cause be shown by August 2 if plaintiffs desired to
25 substitute counsel. Additionally, the Court ordered that all
26 motions thereafter had to be noticed no later than August 19, 1991,
27 and not exceed the 35 page limit.

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1 5. From June 19, through July 29, 1991 defendants served the
2 following motions:
3

4	<u>Srvc. Date</u>	<u>Hrg. Date</u>	<u>Nature of Motion</u>	<u>Pages of Memo</u>	<u>Pages of Exhibits</u>
5	6/19/91	7/22/91	Summary Judgment Statute of Limitations	50 plus 22 page sep. statement	658
6	7/5/91	8/5/91	Summary Judgment First Amendment	98 plus 16 page sep. statement	926
7					
8	7/29/91	8/19/91	Exclude expert's testimony	35	405
9	7/29/91	8/19/91	Sep. trial on issue of releases	16	114
10	7/29/91	8/19/91	To Dismiss	31 plus 6 page sup. brief	303
11	7/29/91	8/19/91	To Strike	11	15

12
13 6. Thus, while the Aznarans have been making efforts to find
14 counsel possessing the requirements to try this extraordinary case,
15 defendants have filed six motions the memoranda of which total 285
16 pages and the exhibits to which total 2,421 pages. This truly is an
17 phenomenal amount of activity, particularly when the Aznarans'
18 legal representation was, at best, unstable.

19 7. The first motion (for summary judgment on statute of
20 limitations issues that is 72 pages in length) was filed shortly
21 after the Aznarans were *in pro per*. The second motion (for summary
22 judgment on First Amendment grounds that is 114 pages in length)
23 was filed shortly after Yanny's interjection into the case. Without
24 addressing the merits of any of the motions, the sheer size and
25 timing thereof could not help but to stress plaintiffs' ability to
26 prosecute their causes of action against defendants to the maximum.

27 8. On July 3, 1991, attorney Yanny on plaintiffs' behalf
28 sought an ex parte order continuing the hearing on the statute of

1 limitations summary judgment motion for "at least sixty (60) days."
2 Plaintiffs' opposition thereto was to be filed and served on or
3 before July 8.

4 9. On July 9, 1991, attorney Yanny on plaintiffs' behalf
5 sought another ex parte order continuing the hearing on the First
6 Amendment summary judgment motion. Plaintiffs' opposition thereto
7 was to be filed and served on or before July 22.

8 10. I first became aware of the Court's Order reinstating me
9 as attorney of record on July 26. At that time, I was aware that
10 plaintiffs were in contact with Mr. Elstead with whom I understood
11 plaintiffs to be in negotiations to act as counsel in this case.
12 (The Court is respectfully requested to consider the Declarations
13 of Ford Greene, John Clifton Elstead, Vicki J. Aznaran and Richard
14 N. Aznaran filed in conjunction with the Association of Counsel
15 filed concurrently herewith.)

16 11. On July 31, 1991, I met with Mr. Elstead and, with
17 plaintiffs' concurrence, we determined not to substitute me out and
18 Mr. Elstead in as attorney of record, but to associate him as trial
19 counsel. On the same day I obtained the case file from Mr. Elstead.
20 The file had been out of my possession ever since I had Federal
21 Expressed it to Los Angeles on June 27. Also on that date I spoke
22 with Tammy, the Court's clerk who advised me that the Court had
23 stricken all papers filed by Joseph A. Yanny as being moot in light
24 of the Court having vacated the Yanny substitution. Thus, the Court
25 would not be ruling on the ex parte applications, submitted by Mr.
26 Yanny, regarding defendants' two pending summary judgment motions.
27 Regretably, at that point, the time within which plaintiffs'
28 oppositions thereto should had been filed had expired.

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1 12. Prior to the exclusion of Yanny from the case,
2 plaintiffs' ex parte requests for continuances of the hearing dates
3 regarding the summary judgment motions were submitted in a timely
4 fashion. With the vacation of the Yanny substitution having
5 occurred after the date for opposition had passed, however, in
6 consequence the Aznarans now stand in default.

7 13. With respect to the motions noticed for August 19, the
8 oppositions thereto shall be served and filed on or before Monday,
9 August 5, 1991.

10 14. There is no possible way that I can oppose the pending
11 motions by August 5, not to mention the motions for summary
12 judgment.

13 15. Based on the circumstances described above, plaintiffs
14 respectfully request that they be allowed to and including August
15 26, 1991, to file their oppositions to all pending motions. While
16 plaintiffs in all practicality would need more time to effectively
17 oppose the motions, plaintiffs recognize that to ask for anything
18 more would intrude way too far into the Court's capacity to
19 consider the motions within the limit set by the September 16 Pre-
20 Trial Conference and the October 15 Trial Date.

21 16. On this date I spoke with Laurie Bartilson, attorney for
22 defendants, who advised me that defendants oppose the instant Ex
23 Parte Application. Additionally, I left word with Julie, the
24 secretary for attorney John Quinn, and advised her that I would be
25 seeking relief through the instant application.

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1 Under penalty of perjury pursuant to the laws of the State of
2 California I hereby declare that the foregoing is true and correct
3 according to my first-hand knowledge, except those matters stated
4 to be on information and belief, and as to those matters, I believe
5 them to be true.

6 Executed on August 1, 1991, at San Anselmo, California

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8
9 FORD GREENE

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11 MEMORANDUM OF POINTS AND AUTHORITIES

12 As set forth above, extraordinary circumstances exist which
13 have resulted in the Aznarans being in default as to two summary
14 judgment motions, and at the threshold of default concerning the
15 remaining four motions. Thus, the Aznarans' failure to file papers
16 in opposition to the two pending summary judgment motions "may be
17 deemed by the Court [as] consent to the granting of the motion."
18

19 Local Rule 7.9.


20 This Court has the authority pursuant to the Federal Rules or
21 the Local Rules to enlarge time before or after the date by which
22 opposition papers are to have been filed. F.R.Civ.P. 6, Local Rule
23 7.3.2.

24 Plaintiffs thus respectfully request, based upon the
25 procedural history of this case over the course of the past two
26 months, the Court grant their application and issue its order
27 allowing plaintiffs to file opposing papers to all outstanding
28 motion provided that such papers be filed and served on or before
August 26, 1991.

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1 DATED: August 1, 1991

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4 FORD GREENE
Attorney for Plaintiffs

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